GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note 2011 Biennium

Bill #	SB0455	**Title:**	Allow a deferral of the payment of property taxes
Primary Sponsor:	Hinkle, Greg	**Status:**	As Introduced

- ☑ Significant Local Gov Impact
- ☐ Needs to be included in HB 2
- ☑ Technical Concerns
- ☐ Included in the Executive Budget
- ☑ Significant Long-Term Impacts
- ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2010 Difference	FY 2011 Difference	FY 2012 Difference	FY 2013 Difference
Expenditures:				
General Fund	$0	$0	$0	$0
Revenue:				
General Fund	($10,767,000)	($8,970,000)	($9,217,000)	($9,298,000)
State Special Revenue	($815,000)	($847,000)	($872,000)	($884,000)
Net Impact-General Fund Balance:	($10,767,000)	($8,970,000)	($9,217,000)	($9,298,000)

Description of fiscal impact:
This bill allows a taxpayer to defer residential property tax payments on qualifying property, and allows partial payments of the deferred payments. The deferred taxes are due and owing upon transfer of the property and become delinquent 30 days after the date of transfer. A transfer to a surviving spouse or between spouses as the result of a dissolution of marriage is not considered a transfer for the purposes of this bill.

FISCAL ANALYSIS

Assumptions:

Department of Revenue

1. This bill allows any taxpayer who owns qualified residential property, to defer payment of property taxes without penalty and interest. The property is then subject to a lien for the full amount of the deferred taxes. The deferral would terminate if the property is no longer owner-occupied residential property, the owner was not a resident for at least seven months each year, or if the ownership of the property is transferred. There are provisions exempting transfers to a surviving spouse or between spouses as the result of dissolution of marriage. Upon transfer, all deferred property taxes are due and owing. If payments are not received within 30 days, the taxes are considered delinquent.

2. Under this bill, qualified residential property means any improvement on real property and appurtenant land not exceeding five acres (see technical note 1).
3. In FY 2008, residential owners paid $557.96 million in total property taxes on property with an assessed market value of $48.7 billion. Of the $557.96 million, $97.14 million of taxes levied went to the state general fund for school equalization and for funding of the state vocational schools, and $6.1 million to the university system for the 6 mill levy. The remaining $462.3 million went to local governments and schools.
4. Of the 502,484 residential parcels state wide, 238,545 property owners qualified for the $400 property tax refund in FY 2008 (238,454/502,484=47.5%). The refund had similar residency and ownership requirements as this bill.
5. This fiscal note also assumes that homeowners who hold mortgages on their residential property would not participate in the property tax deferral program under this bill due to the conditions of their mortgage. Tax year (TY) 2008 matched property tax refunds and personal income tax filings show that 127,220 refund recipients itemized and took the deduction for mortgage interest, and 51,950 itemized but didn't take the mortgage interest deduction. This note assumes 29.0% of eligible homeowners do not have mortgages (51,950/(127,220+51,950)=29.0%).
6. It is estimated that 13.8% of statewide residential property would be eligible for property tax deferral (47.5% X 29.0%=13.8%).
7. This fiscal note assumes all eligible homeowners who also do not have mortgages on their property will choose to defer payment of taxes since there is no accruing interest on the deferral.
8. This bill would be effective upon passage and approval and impact residential property tax collections starting November 2009 (FY 2010).
9. Using information from the sales history file of the department’s Orion property tax computer system, there are approximately 34,000 residential sales per year. This represents approximately 7% of the 500,000 residential parcels in the state.
10. Section (1) (4) (c) of the bill requires that, upon transfer of the property, all deferred taxes are due and owing and are considered delinquent after 30 days. This fiscal note assumes that the first payments of deferred taxes will occur one month after the passage of the bill. Thus, the receipts in FY 2010 would be 7% of the total taxes X 11/12 for the one month delay.
11. This fiscal note is based on present law property growth assumptions before HJR 2 mitigation
12. According to the data from the 2007 American Community Survey, the average length of tenure in an occupied structure is 11.9 years. This translates into compound growth rate of 6.0%. This rate is used to estimate the accumulation of property tax liability over multiple years of deferred property taxes to be paid when due on a transfer.
13. The following table presents the estimated net impact of SB 455 by fiscal year and taxing jurisdiction based on assumptions 3 through 13:

Calculation of Deferred Residential Property Tax Collections under SB 455
(In Millions)

Jurisdiction	FY 2009 (Base)	Eligible Share	FY 2010	FY 2011	FY 2012	FY 2013
Estimated present law class 4 residential property growth			11.3%	11.8%	11.1%	10.5%
Reduction in property tax collections						
State general fund	$90.340	13.8%	($13.874)	($15.506)	($17.228)	($19.043)
University SSR fund	$5.673	13.8%	($0.871)	($0.974)	($1.082)	($1.196)
Subtotal state revenue reduction	$96.013		($14.745)	($16.480)	($18.309)	($20.239)
Local government and schools	$462.344	13.8%	($71.004)	($79.357)	($88.168)	($97.458)
Total deferred property taxes	$558.357		($85.749)	($95.836)	($106.477)	($117.696)
Revenue from deferred taxes-ownership change						
Cumulative growth of deferred property taxes			0.00%	6.00%	12.36%	19.10%
Annual change of ownership			7.00%	7.00%	7.00%	7.00%
State general fund			$0.890	$2.016	$3.335	$4.970
University SSR fund			$0.056	$0.127	$0.209	$0.312
Subtotal state property tax collections			$0.946	$2.142	$3.545	$5.282
Local government and school property tax collections			$4.556	$10.316	$17.069	$25.436
Total collections			**$5.502**	**$12.459**	**$20.614**	**$30.719**
Net reduction in property tax collections						
State general fund			($12.984)	($13.490)	($13.892)	($14.073)
University SSR fund			($0.815)	($0.847)	($0.872)	($0.884)
Subtotal net reduction in state property tax collections			($13.799)	($14.337)	($14.765)	($14.956)
Local government and schools			($66.448)	($69.040)	($71.098)	($72.021)
Net reduction in total property tax collections			**($80.246)**	**($83.378)**	**($85.863)**	**($86.978)**

14. Individuals who defer their property tax payments would no longer have annual property tax deductions on their income taxes. This would increase individual income tax collections due to higher taxable incomes arising from reduced property tax deductions. Eligible homeowners would be able to claim their accumulated property tax deductions upon payment of their property tax liability.
15. The estimate of increased personal income tax collections due to the deferral of property tax payments is calculated by multiplying the net reduction in property tax payments each tax year by the TY 2007 average personal income tax rate of 5.525%.
16. The reduction in property tax deductions will increase tax liabilities on tax returns filed in the fiscal year following the tax year. The estimate is presented in the following table:

Present Law Increase in Income Tax Collections under SB 455 Due to Deferral of Property Tax Payments (In Millions)

	TY 2009	TY 2010	TY 2011	TY 2012
Net reduction in property taxes	($40.123)	($81.812)	($84.620)	($86.420)
Conversion to fiscal year revenue	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**
Average Tax Rate	5.525%	5.525%	5.525%	5.525%
Additional income tax revenue	**$2.217**	**$4.520**	**$4.675**	**$4.775**

17. The Department does not anticipate any additional expenses due to passage of this bill.

<u>Estimated revenue impact under HJR 2 property tax mitigation assumptions</u>

18. The revenue impact of SB 455 under HJR 2 growth assumptions (FY 2010, FY 2011) and OBPP estimated growth rates for FY 2012 and FY 2013, are presented in the following table:

SB455 - Calculation of Deferred Residential Property Tax Collections with HJR 2 Property Tax Mitigation (In Millions)

Jurisdiction	FY 2009	Eligible Share	FY 2010	FY 2011	FY 2012	FY 2013
Estimated HJR 2 / OBPP class 4 residential property growth			3.5%	3.5%	3.2%	3.2%
Reduction in property tax collections						
State general fund	$90.340	13.8%	($12.898)	($13.353)	($13.777)	($14.213)
University SSR fund	$5.673	13.8%	($0.810)	($0.839)	($0.865)	($0.893)
Subtotal state revenue reduction	$96.013		($13.708)	($14.192)	($14.642)	($15.106)
Local government and schools	$462.344	13.8%	($66.011)	($68.340)	($70.506)	($72.740)
Total Deferred Property Taxes	**$558.357**		**($79.720)**	**($82.532)**	**($85.148)**	**($87.846)**
Revenue from deferred taxes-ownership change						
Cumulative growth of deferred property taxes			0.00%	6.00%	12.36%	19.10%
Annual change of ownership			7.00%	7.00%	7.00%	7.00%
State general fund			$0.828	$1.736	$2.667	$3.710
University SSR fund			$0.052	$0.109	$0.167	$0.233
Subtotal state property tax collections			$0.880	$1.845	$2.835	$3.943
Local government and school property tax collections			$4.236	$8.884	$13.650	$18.985
Total property tax revenue			**$5.115**	**$10.729**	**$16.485**	**$22.928**
Net reduction in property taxes collections						
State general fund			($12.071)	($11.617)	($11.109)	($10.504)
University SSR fund			($0.758)	($0.730)	($0.698)	($0.660)
Subtotal net reduction in state property tax collections			($12.829)	($12.347)	($11.807)	($11.163)
Local government and schools			($61.776)	($59.456)	($56.856)	($53.755)
Net reduction in total property tax collections			**($74.604)**	**($71.803)**	**($68.663)**	**($64.918)**

19. The general fund personal income tax revenue effects under HJR 2 revenue assumptions (property tax mitigation) are estimated to be:

SB 455: Estimated Increase in Income Tax Collections Due to Deferral of Property Tax Payments with HJR 2 Property Tax Mitigation (In Millions)

	TY 2009	TY 2010	TY 2011	TY 2011
Net reduction in property taxes	($37.302)	($73.204)	($70.233)	($66.791)
Conversion to fiscal year revenue	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**
Average Tax Rate	5.525%	5.525%	5.525%	5.525%
Additional income tax revenue	**$2.061**	**$4.045**	**$3.880**	**$3.690**

Office of Public Instruction

20. School districts received $383.4 million in property taxes in FY 2009, which represents 28% of all funding for school district budgets. The proportion of residential property in a school district's property tax base varies widely among school districts. In some districts, the residential property tax base could represent more than one-half of the total taxable valuation of the district. SB 455 would result in a significant revenue shortfall for school district budgets.
21. SB 455 does not affect the school funding formula, but does affect district tax levy receipts. Schools determine the amount of funding needed to operate the school district each year. The school notifies the county and the counties levy the taxes needed to support the schools based on taxable valuation in each district. If levied tax receipts do not meet the budgeted levy, districts would have revenue shortfalls. The bill does not provide a mechanism for the county or the district to predictably collect the revenue required to fund schools budgets.

	FY 2010 Difference	**FY 2011 Difference**	**FY 2012 Difference**	**FY 2013 Difference**
Fiscal Impact:				
Department of Revenue				
Revenues:				
General Fund (01)	($10,767,000)	($8,970,000)	($9,217,000)	($9,298,000)
State Special Revenue (02)	($815,000)	($847,000)	($872,000)	($884,000)
TOTAL Revenues	($11,582,000)	($9,817,000)	($10,089,000)	($10,182,000)
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	($10,767,000)	($8,970,000)	($9,217,000)	($9,298,000)
State Special Revenue (02)	($815,000)	($847,000)	($872,000)	($884,000)

Effect on County or Other Local Revenues or Expenditures:

1. Local governments and schools would see a significant reduction in property tax revenue (see assumption 13). This bill would also complicate the predictability of property tax receipts in local jurisdictions.

Long-Term Impacts:

1. Deferral of property tax under SB 455 would result in a long-term reduction in property tax revenue as a significant portion of property taxes would be paid in arrears. The bill would also decrease the predictability of property tax receipts.

Technical Notes:

Department of Revenue

1. Section 1(7) identifies "qualified residential property" as any improvements and appurtenant land not exceeding 5 acres owned and occupied for at least 7 months. This definition could be interpreted to apply to commercial structures where the taxpayer lives in that structure for more than 7 months of the year. That would include duplexes, apartment houses, and other types of commercial improvements. This provision will pose difficulties for both the department and county treasurers. In the tax collection process qualifying residential property tax assessments and billing would need to be separated, from all other property taxes since the taxes on the land over 5 acres are subject to delinquencies under this bill. Currently, the department cannot separate, for property tax purposes, property descriptions and their specific values if that would result in that description being different from the description on the recorded documents in the Clerk & Recorder's office.

2. This bill would also allow eligible taxpayers to make partial payments on any year's deferral of property taxes bills for the qualifying property. Based on the current capabilities of county computer systems, the provision to allow partial payments under this bill would result in significant administrative expense to provide for that capability. Tracking partial payments on any year's deferral of property taxes or dealing with partial payments when a delinquency is involved could prove problematic.

Office of Public Instruction

3. Many school districts are carrying general obligation debt that is retired through property tax payments. If local property taxes are anticipated, but do not materialize, school districts may not be able to meet their debt service obligations. SB 455 creates the risk of impairing existing contracts.
4. It is unclear which entities are responsible for keeping track of the amount owing in deferred taxes on a residential property.
5. It is unclear whether the deferment must be renewed annually.

Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*